UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 13, 2010

CBCA 1581-RELO

In the Matter of JOSEPH de VASTEY

Joseph de Vastey, Frankfurt, Germany, Claimant.

Michael L. Waschek, Civilian Personnel Officer, 86th Airlift Wing, Department of the Air Force, Ramstein Air Base, Germany, appearing for the Department of the Air Force.

SHERIDAN, Board Judge.

Claimant has requested the Board's review of the agency's determination that he was not entitled to the shipment of his household goods (HHG) at government expense because he failed to complete shipment within two years from the day he reported for duty on his permanent change of station (PCS) orders. As claimant failed to complete shipment of his HHG in a timely fashion, he is not entitled to shipment of HHG under his PCS orders.

Background

Claimant was a civilian employee of the Department of the Air Force (USAF) at Vandenberg Air Force Base (Vandenberg), California, who accepted voluntary transfer to Ramstein Air Base (Ramstein), Germany. Claimant signed an agreement providing he would be eligible for the movement and storage of HHG incident to his transfer to and from the Ramstein location.

On February 1, 2007, after completing his tour at Ramstein, claimant was issued PCS orders for return travel to Vandenberg. The PCS orders authorized delayed travel for claimant's spouse and child, as well as delayed shipment of HHG. Shortly thereafter, on February 22, 2007, claimant was notified that the position to which he was returning at Vandenberg was being abolished due to a reduction-in-force (RIF). Claimant traveled on his PCS orders on April 1, 2007, and reported for duty at Vandenberg on April 3, 2007. Claimant's spouse, child, and HHG remained in Germany.

Pursuant to the RIF, claimant was separated from the USAF on July 29, 2007. According to claimant, prior to separation, he was told by the Civilian Personnel Office at Vandenberg that he had two years from the date of separation to complete his shipment of HHG.

On April 22, 2009, claimant's spouse approached a human resources assistant at Ramstein and requested return shipment of HHG to Vandenberg. Claimant's spouse was advised that the Joint Travel Regulations (JTR) authorized delayed travel and transportation only up to two years. Ramstein verbally denied the request noting that more than two years had elapsed from when claimant reported for duty under the PCS orders.

The agency asserts claimant is not entitled to shipment of HHG because the JTR states that transportation of HHG must be completed within two years of the effective date of transfer to a new permanent duty station. The agency avers:

> Since Mr. de Vastey's departure from Europe was not coincident to his separation (in July 07), but rather to exercise his return right to CONUS [the Continental United States] (on 1 Apr 07) and because the position to which he had return rights was being cancelled, this paragraph applies to his situation. Therefore, the respective date to calculate the time limit is the travel date on his orders, 1 Apr 07.

Discussion

Agencies may pay travel and transportation expenses of employees who return from posts of duty overseas to which they were transferred, pursuant to applicable regulations. 5 U.S.C. §§ 5722, 5724(d) (2006). The Federal Travel Regulation, which applies to all federal civilian employees, provides generally that an employee must complete all aspects of a relocation, including shipment of HHG, within two years from the effective date of transfer or appointment. 41 CFR -2.4, 2.8 (2007).

For an agency to pay for shipping an employee's HHG, the goods must be shipped within the time allowed by the agency's regulations. The general rule established by the JTR, which is applicable to claimant as a civilian employee of the Department of Defense, provided the agency would pay for the shipment of claimant's HHG so long as the goods were shipped within two years from the date he reported for duty in California. JTR C5165-

H.3.b.[1] As claimant's delayed shipment of HHG was authorized per his PCS orders, he was required to complete the shipment by April 3, 2009, two years from the date on which he reported for duty at Vandenberg.

Claimant argues that the Civilian Personnel Office at Vandenberg told him that he had to complete shipment of HHG within two years of his date of separation. However, it was the PCS orders that provided the authorization for shipment of HHG and those orders set the applicable date for the running of the two year time limitation. While claimant may have erroneously been told that the date of separation was applicable, this erroneous advice would not entitle him to benefits that are not authorized by statute or regulation. *See Steven L. Lanser*, CBCA 1674-RELO (Nov. 18, 2009); *Bruce Bryant*, CBCA 901-RELO, 08-1 BCA ¶ 33,737 (2007); *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634; *Robert E. Solomon*, CBCA 524-RELO, 07-1 BCA ¶ 33,533; *Jeffrey A. Whittall*, GSBCA 16785-RELO, 06-1 BCA ¶ 33,259; *Bruce Hidaka-Gordon*, GSBCA 16811-RELO, 06-1 BCA ¶ 33,255; *Joel Williams*, GSBCA 16437-RELO, 04-2 BCA ¶ 32,769.

Decision

We affirm the agency's determination that claimant is not entitled to the shipment of his HHG at government expense.

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PATRICIA J. SHERIDAN
Board Judge

[1] The agency references JTR C5115-H.2 as being applicable; however, we use another JTR provision, JTR C5165-H.3.b, which was effective at the time of claimant's PCS orders, during April 2007.